



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 31, 1995

Mr. Everette D. Jobe
General Counsel
Texas Department of Banking
2601 North Lamar Boulevard
Austin, Texas 78705-4294

OR95-1152

Dear Mr. Jobe:

By letter dated March 31, 1994, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25608.

The Texas Department of Banking (the "department") received a request for any information in the department's possession relating to a certain bank in Texarkana, Texas. You advise us that the department has made some of the requested information available to the requestor. You have submitted the remaining information to us for review. You claim that sections 552.101, 552.104, and 552.112 of the Government Code except the requested information from required public disclosure.

Section 552.101 of the Government Code excepts from required public disclosure information deemed confidential by statutory law. You contend that all of the documents submitted to this office are made confidential under V.T.C.S. article 342-210(a). The Seventy-fourth Legislature repealed article 342-210, V.T.C.S., of the Texas Banking Code. Texas Banking Act, 74th Leg., R.S., ch. 914, § 26, 1995 Tex. Sess. Law Serv. 4451 (Vernon). The confidentiality of information submitted to the department is now governed by section 2.101 of the Texas Banking Act. *Id.* § 1, 1995 Tex. Sess. Law Serv. 4451, 4467 (Vernon). Section 2.101 provides in part that:

(a) *Information obtained directly or indirectly by the department relative to the financial condition or business affairs of a financial institution, or a present, former, or prospective shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than the public portions of call*

reports and profit and loss statements, *whether obtained through application, examination, or otherwise*, except published statements, and all related files and records of the department are confidential and may not be disclosed by the banking commissioner or an employee of the department except as expressly provided otherwise by this Act or rules adopted under this Act.

Id. (emphasis added). A financial institution is defined as "a bank, savings association, or savings bank maintaining an office, branch, or agency office in this state." *Id.* at 4455 (Vernon) (to be codified as section 1.002(a)(25) of the Texas Banking Act). Accordingly, information that is obtained by the department that concerns the financial condition or business affairs of a financial institution or a present, former, or prospective shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than the public portions of call reports and profit and loss statements, is made confidential by section 2.101 except as provided otherwise by the act or by rules adopted under the act. You have, however, advised us that the department has already released the information that falls within the exceptions to confidentiality expressed in this section. You must therefore withhold the requested information under section 552.101 of the Government Code as information deemed confidential by law.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/LBC/rho

Ref: ID# 25608

Enclosures: Submitted documents

cc: Mr. John E. Sullivan
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(w/o enclosures)